

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,

Plaintiff,

V.

FRANKIE GONZALEZ,

Defendant.

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Criminal Action No. 96-0114 (JAG)

ORDER

GREENAWAY, JR., U.S.C.J.¹

This matter comes before this Court on Defendant’s “Motion for Discovery and Compulsory Production of the Documents by Subpoena Duces Tecum.” (Docket No. 577.) Defendant, pursuant to 18 U.S.C. § 3582(c)(2), requests that this Court direct the issuance of an affidavit, by the accusing officer, “swearing to [Defendant’s] liability” for 18 U.S.C. §§ 1961, 1962(c), and 1962(d); and 21 U.S.C. §§ 841(a)(1) and 846.²

18 U.S.C. § 3582(c)(2) provides that:

[I]n the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(o), upon motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing

¹ Sitting by designation on the District Court.

² Defendant also seeks an affidavit, by the accusing officer, “swearing to [Defendant’s] liability” for several counts under New Jersey State law.

Commission.

Section 3582(c)(2) does not provide any grounds by which this Court may grant Defendant's motion to compel discovery.³ Therefore,

IT IS on this 18th day of March 2010,

ORDERED that Defendant's "Motion for Discovery and Compulsory Production of the Documents by Subpoena Duces Tecum" is DENIED; and

IT IS FURTHER ORDERED that a copy of this Order be served on all parties within seven (7) days of the date of entry of this Order.

S/Joseph A. Greenaway, Jr.
JOSEPH A. GREENAWAY, JR., U.S.C.J.
(Sitting by designation on the District Court)

³ Even if this Court construes Defendant's motion as requesting modification of his sentence, he is not eligible for such a modification, pursuant to 18 U.S.C. 3582(c)(2), because the Sentencing Commission has not lowered the sentencing range for 18 U.S.C. §§ 1961, 1962(c), or 1962(d); or 21 U.S.C. §§ 841(a)(1) or 846.